



January 24, 2003

## SENATE BILL No. 166

DIGEST OF SB 166 (Updated January 23, 2003 11:46 AM - DI 44)

**Citations Affected:** IC 6-3.5.

**Synopsis:** Distribution of local option taxes. Changes the method for computing the amount distributed to counties from money received by the department of state revenue from a county adjusted gross income tax, county option income tax, or county economic development income tax. Repeals provisions concerning the keeping of three and six month balances in a county's tax account with the state. Repeals a provision requiring a report on account balances for the county economic development income tax in February of each year.

**Effective:** June 1, 2003.

**Kenley**

January 7, 2003, read first time and referred to Committee on Finance.  
January 23, 2003, amended, reported favorably — Do Pass.

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SB 166—LS 6924/DI 51+



January 24, 2003

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

## SENATE BILL No. 166

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 6-3.5-1.1-9 IS AMENDED TO READ AS  
2       FOLLOWS [EFFECTIVE JUNE 1, 2003]: Sec. 9. (a) Revenue derived  
3       from the imposition of the county adjusted gross income tax shall, in  
4       the manner prescribed by this section, be distributed to the county that  
5       imposed it. The amount to be distributed to a county during an ensuing  
6       calendar year equals the amount of county adjusted gross income tax  
7       revenue that the department, after reviewing the recommendation of the  
8       state budget agency, ~~estimates will be received from that county during~~  
9       the twelve (12) month period beginning July 1 of the immediately  
10      preceding calendar year and ending June 30 of the ensuing calendar  
11      year: **determines has been:**  
12              **(1) received from that county for a taxable year ending before**  
13              **the calendar year in which the determination is made; and**  
14              **(2) reported on an annual return or amended return**  
15              **processed by the department in the state fiscal year ending**  
16              **before July 1 of the calendar year in which the determination**  
17              **is made;**

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as adjusted (as determined after review of the recommendation of the budget agency) for refunds of county adjusted gross income tax made in the state fiscal year.

(b) Before ~~July~~ **August** 2 of each calendar year, the department, after reviewing the recommendation of the ~~state~~ budget agency, shall ~~estimate and~~ certify to the county auditor of each adopting county the amount of county adjusted gross income tax revenue that will be collected from that county during the twelve (12) month period beginning July 1 of that calendar year and ending June 30 of the immediately succeeding calendar year: **determined under subsection (a) plus the amount of interest in the county's account that has accrued and has not been included in a certification made in a preceding year.** The amount certified is the county's "certified distribution" for the immediately succeeding calendar year. The amount certified ~~may~~ **shall** be adjusted under ~~subsection~~ **subsections (c), or (d), (e), and (f).** The department shall provide with the certification an informative summary of the calculations used to determine the certified distribution.

(c) ~~In calendar year 2003, the department may shall, after reviewing the recommendation of the budget agency, certify to an adopting county for distribution in calendar year 2004 an amount that is greater than at least equal to the estimated twelve (12) month revenue collection if the department, after reviewing the recommendation of the state budget agency, determines that there will be a greater amount of revenue available for distribution from the county's account established under section 8 of this chapter: amount certified in 2002 for distribution in 2003. However, if the county council reduced the tax rate by ordinance adopted after December 31, 2001, the amount certified must reflect the reduced tax rate.~~

(d) The department ~~may~~ **shall** certify an amount less than the estimated twelve (12) month revenue collection ~~amount determined under subsections (b) and (c)~~ if the department, after reviewing the recommendation of the ~~state~~ budget agency, determines that a part of those collections need to be distributed during the current calendar year so that the county will receive its full certified distribution for the current calendar year: **the reduced distribution is necessary to offset overpayments made in a calendar year before the calendar year of the distribution, including any overpayment resulting from the application of subsection (c).** The department, after reviewing the recommendation of the budget agency, may reduce the amount of the certified distribution over several calendar years so that any overpayments are offset over several years rather than in one (1)



1 lump sum.

2 (e) The department, after reviewing the recommendation of the  
3 budget agency, shall adjust the certified distribution of a county to  
4 correct for any clerical or mathematical errors made in any  
5 previous certification under this section. The department, after  
6 reviewing the recommendation of the budget agency, may reduce  
7 the amount of the certified distribution over several calendar years  
8 so that any adjustment under this subsection is offset over several  
9 years rather than in one (1) lump sum.

10 (f) The department, after reviewing the recommendation of the  
11 budget agency, shall adjust the certified distribution of a county to  
12 provide the county with the distribution required under section  
13 10(b) of this chapter.

14 SECTION 2. IC 6-3.5-1.1-11, AS AMENDED BY P.L.178-2002,  
15 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
16 JUNE 1, 2003]: Sec. 11. (a) Except for:

17 (1) revenue that must be used to pay the costs of operating a jail  
18 and juvenile detention center under section 2.5(d) of this chapter;

19 (2) revenue that must be used to pay the costs of:

20 (A) financing, constructing, acquiring, improving, renovating,  
21 or equipping facilities and buildings;

22 (B) debt service on bonds; or

23 (C) lease rentals;

24 under section 2.8 of this chapter;

25 (3) revenue that must be used to pay the costs of construction,  
26 improvement, renovation, or remodeling of a jail and related  
27 buildings and parking structures under section 2.7 or 2.9 of this  
28 chapter;

29 (4) revenue that must be used to pay the costs of operating and  
30 maintaining a jail and justice center under section 3.5(d) of this  
31 chapter; or

32 (5) revenue that must be used to pay the costs of constructing,  
33 acquiring, improving, renovating, or equipping a county  
34 courthouse under section 3.6 of this chapter;

35 the certified distribution received by a county treasurer shall, in the  
36 manner prescribed in this section, be allocated, distributed, and used  
37 by the civil taxing units and school corporations of the county as  
38 certified shares and property tax replacement credits.

39 (b) Before ~~August 2~~ **August 10** of each calendar year, each county  
40 auditor shall determine the part of the certified distribution for the next  
41 succeeding calendar year that will be allocated as property tax  
42 replacement credits and the part that will be allocated as certified

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shares. The percentage of a certified distribution that will be allocated as property tax replacement credits or as certified shares depends upon the county adjusted gross income tax rate for resident county taxpayers in effect on August 1 of the calendar year that precedes the year in which the certified distribution will be received **by two (2) years**. The percentages are set forth in the following table:

COUNTY	PROPERTY TAX	
	REPLACEMENT CREDITS	CERTIFIED SHARES
ADJUSTED GROSS INCOME TAX RATE		
0.5%	50%	50%
0.75%	33 1/3%	66 2/3%
1%	25%	75%

(c) The part of a certified distribution that constitutes property tax replacement credits shall be distributed as provided under sections 12, 13, and 14 of this chapter.

(d) The part of a certified distribution that constitutes certified shares shall be distributed as provided by section 15 of this chapter.

SECTION 3. IC 6-3.5-1.1-21, AS AMENDED BY P.L.178-2002, SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2003]: Sec. 21. Before ~~July~~ **October** 2 of each year, the department shall submit a report to each county auditor indicating the following:

(1) ~~The balance in the county's adjusted gross income tax account as of the end of the preceding year.~~ **cut-off date specified by the budget agency.**

(2) ~~The required six (6) month balance, or three (3) month balance if the county has adopted an ordinance under section 9-5 of this chapter before the end of the preceding year.~~

SECTION 4. IC 6-3.5-1.1-21.1, AS ADDED BY P.L.178-2002, SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2003]: Sec. 21.1. (a) If, after receiving a recommendation from the budget agency, the department determines that a sufficient balance ~~existed at the end of the preceding year~~ **exists in a county account in excess of the required six (6) or three (3) month balance, amount necessary, when added to other money that will be deposited in the account after the date of the recommendation, to make certified distributions to the county in the ensuing year,** the department may make a supplemental distribution to a county from the county's adjusted gross income tax account.

(b) A supplemental distribution described in subsection (a) must be:

(1) made in January of the ensuing calendar year; and



(2) allocated and used in the same manner as certified distributions.

(c) A determination under this section must be made before ~~July~~ **October 2**.

SECTION 5. IC 6-3.5-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2003]: Sec. 2. (a) A county income tax council is established for each county in Indiana. The membership of each county's county income tax council consists of the fiscal body of the county and the fiscal body of each city or town that lies either partially or entirely within that county.

(b) Using procedures described in this chapter, a county income tax council may adopt ordinances to:

- (1) impose the county option income tax in its county;
- (2) subject to section 12 of this chapter, rescind the county option income tax in its county;
- (3) increase the county option income tax rate for the county;
- (4) freeze the county option income tax rate for its county;
- (5) increase the homestead credit in its county; **or**
- (6) subject to section 12.5 of this chapter, decrease the county option income tax rate for the county. **or**
- (7) ~~subject to section 17.5 of this chapter, elect to reduce the required balance in the county special account.~~

(c) An ordinance adopted in a particular year under this chapter to impose or rescind the county option income tax or to increase its tax rate is effective July 1 of that year.

SECTION 6. IC 6-3.5-6-17, AS AMENDED BY P.L.178-2002, SECTION 61, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2003]: Sec. 17. (a) ~~Except as provided in section 2.5 of this chapter,~~ Revenue derived from the imposition of the county option income tax shall, in the manner prescribed by this section, be distributed to the county that imposed it. The amount that is to be distributed to a county during an ensuing calendar year equals the amount of county option income tax revenue that the department, after reviewing the recommendation of the ~~state~~ budget agency, ~~estimates will be determines has been:~~

- (1) received from that county during the twelve (12) month period beginning July 1 of the immediately preceding for a taxable year ending in a calendar year and ending June 30 of the ensuing calendar year. **preceding the calendar year in which the determination is made; and**
- (2) reported on an annual return or amended return processed by the department in the state fiscal year ending



1 before July 1 of the calendar year in which the determination  
 2 is made;  
 3 as adjusted (as determined after review of the recommendation of  
 4 the budget agency) for refunds of county option income tax made  
 5 in the state fiscal year.

6 (b) Before ~~June 16~~ August 2 of each calendar year, the department,  
 7 after reviewing the recommendation of the ~~state~~ budget agency, shall  
 8 ~~estimate and~~ certify to the county auditor of each adopting county the  
 9 amount of county option income tax revenue that will be collected from  
 10 that county during the twelve (12) month period beginning July 1 of  
 11 that calendar year and ending June 30 of the immediately succeeding  
 12 calendar year: **determined under subsection (a) plus the amount of**  
 13 **interest in the county's account that has accrued and has not been**  
 14 **included in a certification made in a preceding year.** The amount  
 15 certified is the county's "certified distribution" for the immediately  
 16 succeeding calendar year. The amount certified ~~may~~ shall be adjusted,  
 17 as necessary, under ~~subsection~~ subsections (c), ~~or~~ (d), and (e). The  
 18 department shall provide with the certification an informative  
 19 summary of the calculations used to determine the certified  
 20 distribution.

21 (c) In calendar year 2003, the department ~~may~~ shall, after  
 22 reviewing the recommendation of the budget agency, certify to an  
 23 adopting county for distribution in calendar year 2004 an amount  
 24 that is ~~greater than~~ at least equal to the estimated twelve (12) month  
 25 revenue collection if the department, after reviewing the  
 26 recommendation of the state budget agency, determines that there will  
 27 be a greater amount of revenue available for distribution from the  
 28 county's account established under section 16 of this chapter: **amount**  
 29 **certified in 2002 for distribution in 2003. However, if the county**  
 30 **income tax council reduced the county option income tax rate by**  
 31 **ordinance adopted after December 31, 2001, the amount certified**  
 32 **must reflect the reduced tax rate.**

33 (d) The department ~~may~~ shall certify an amount less than the  
 34 estimated twelve (12) month revenue collection **amount determined**  
 35 **under subsections (b) and (c),** if the department, after reviewing the  
 36 recommendation of the state budget agency, determines that a part of  
 37 those collections needs to be distributed during the current calendar  
 38 year so that the county will receive its full certified distribution for the  
 39 current calendar year: **the reduced distribution is necessary to offset**  
 40 **overpayments made in a calendar year before the calendar year of**  
 41 **the distribution, including any overpayment resulting from the**  
 42 **application of subsection (c). The department, after reviewing the**



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1 recommendation of the budget agency, may reduce the amount of  
 2 the certified distribution over several calendar years so that any  
 3 overpayments are offset over several years rather than in one (1)  
 4 lump sum.

5 (e) The department, after reviewing the recommendation of the  
 6 budget agency, shall adjust the certified distribution of a county to  
 7 correct for any clerical or mathematical errors made in any  
 8 previous certification under this section. The department, after  
 9 reviewing the recommendation of the budget agency, may reduce  
 10 the amount of the certified distribution over several calendar years  
 11 so that any adjustment under this subsection is offset over several  
 12 years rather than in one (1) lump sum.

13 (f) One-twelfth (1/12) of each adopting county's certified  
 14 distribution for a calendar year shall be distributed from its account  
 15 established under section 16 of this chapter to the appropriate county  
 16 treasurer on the first day of each month of that calendar year.

17 ~~(f) Except as provided in section 2-5 of this chapter;~~ (g) Upon  
 18 receipt, each monthly payment of a county's certified distribution shall  
 19 be allocated among, distributed to, and used by the civil taxing units of  
 20 the county as provided in sections 18 and 19 of this chapter.

21 ~~(g)~~ (h) All distributions from an account established under section  
 22 16 of this chapter shall be made by warrants issued by the auditor of  
 23 state to the treasurer of state ordering the appropriate payments.

24 SECTION 7. IC 6-3.5-6-17.2, AS ADDED BY P.L.178-2002,  
 25 SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 26 JUNE 1, 2003]: Sec. 17.2. Before ~~July 2~~ **October 2** of each year, the  
 27 department shall submit a report to each county auditor indicating the  
 28 following:

29 ~~(1) The balance in the county's special account as of the end of the~~  
 30 ~~preceding year:~~

31 ~~(2) The required six (6) month balance or three (3) month~~  
 32 ~~balance, if the county has adopted an ordinance under:~~

33 ~~(A) section 17.4 of this chapter;~~

34 ~~(B) section 17.5 of this chapter; or~~

35 ~~(C) section 17.6 of this chapter;~~

36 ~~before the end of the preceding year: cut-off date set by the~~  
 37 ~~budget agency.~~

38 SECTION 8. IC 6-3.5-6-17.3, AS ADDED BY P.L.178-2002,  
 39 SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 40 JUNE 1, 2003]: Sec. 17.3. (a) If, after receiving a recommendation  
 41 from the budget agency, the department determines that a sufficient  
 42 balance ~~existed at the end of the preceding year~~ exists in a county

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1 **account** in excess of the ~~required six (6) or three (3) month balance,~~  
 2 **amount necessary, when added to other money that will be**  
 3 **deposited in the account after the date of the recommendation, to**  
 4 **make certified distributions to the county in the ensuing year, the**  
 5 department may make a supplemental distribution to a county from the  
 6 county's special account.

7 (b) A supplemental distribution described in subsection (a) must be:

8 (1) made in January of the ensuing calendar year; and

9 (2) allocated and used in the same manner as certified  
 10 distributions.

11 (c) A determination under this section must be made before ~~July 2:~~  
 12 **October 2.**

13 SECTION 9. IC 6-3.5-6-19, AS AMENDED BY P.L.90-2002,  
 14 SECTION 297, IS AMENDED TO READ AS FOLLOWS  
 15 [EFFECTIVE JUNE 1, 2003]: Sec. 19. (a) Except as provided in  
 16 sections ~~17-6(d);~~ 18(e) and 18.5(b)(3) of this chapter, in determining  
 17 the fractional share of distributive shares the civil taxing units of a  
 18 county are entitled to receive under section 18 of this chapter during a  
 19 calendar year, the department of local government finance shall  
 20 consider only property taxes imposed on tangible property subject to  
 21 assessment in that county.

22 (b) In determining the amount of distributive shares a civil taxing  
 23 unit is entitled to receive under section 18(g) of this chapter, the  
 24 department of local government finance shall consider only the  
 25 percentage of the civil taxing unit's budget that equals the ratio that the  
 26 total assessed valuation that lies within the civil taxing unit and the  
 27 county that has adopted the county option tax bears to the total assessed  
 28 valuation that lies within the civil taxing unit.

29 (c) The distributive shares to be allocated and distributed under this  
 30 chapter shall be treated by each civil taxing unit as additional revenue  
 31 for the purpose of fixing its budget for the budget year during which the  
 32 distributive shares is to be distributed to the civil taxing unit.

33 (d) In the case of a civil taxing unit that includes a consolidated city  
 34 its fiscal body may distribute any revenue it receives under this chapter  
 35 to any governmental entity located in its county except an excluded  
 36 city, a township, or a school corporation.

37 SECTION 10. IC 6-3.5-7-10.5, AS ADDED BY P.L.178-2002,  
 38 SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 39 JUNE 1, 2003]: Sec. 10.5. Before ~~July~~ **October 2** of each year, the  
 40 department shall submit a report to each county auditor indicating the  
 41 following:

42 ~~(1) The balance in the county's special account as of the end of the~~



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preceding year.

(2) The required six (6) month balance as of the end of the preceding year. cut-off date set by the budget agency.

SECTION 11. IC 6-3.5-7-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2003]: Sec. 11. (a) Revenue derived from the imposition of the county economic development income tax shall, in the manner prescribed by this section, be distributed to the county that imposed it.

(b) Before ~~July~~ **August** 2 of each calendar year, the department, after reviewing the recommendation of the budget agency, shall ~~estimate and~~ certify to the county auditor of each adopting county the **sum of the** amount of county economic development income tax revenue that ~~will be collected from that county during the twelve (12) month period beginning July 1 of that calendar year and ending June 30 of the following calendar year.~~ **the department determines has been:**

(1) received from that county for a taxable year ending before the calendar year in which the determination is made; and

(2) reported on an annual return or amended return processed by the department in the state fiscal year ending before July 1 of the calendar year in which the determination is made;

as adjusted (as determined after review of the recommendation of the budget agency) for refunds of county economic development income tax made in the state fiscal year plus the amount of interest in the county's account that has been accrued and has not been included in a certification made in a preceding year. The amount certified is the county's certified distribution, which shall be distributed on the dates specified in section 16 of this chapter for the following calendar year. The amount certified ~~may~~ **shall** be adjusted under ~~subsection subsections (c), or (d), (e), (f), and (g).~~ **The department shall provide with the certification an informative summary of the calculations used to determine the certified distribution.**

(c) In calendar year 2003, the department ~~may~~ **shall**, after reviewing the recommendation of the budget agency, certify to an adopting county **for distribution in calendar year 2004** an amount that is ~~greater than~~ **at least equal to** the estimated twelve (12) month revenue collection if the department, after reviewing the recommendation of the budget agency, determines that there will be a greater amount of revenue available for distribution from the county's account established under section 10 of this chapter. ~~amount certified in 2002 for distribution in 2003.~~ **However, if the entity imposing the**

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1 tax reduces the tax by ordinance adopted after December 31, 2001,  
2 the amount certified shall reflect the reduced tax rate.

3 (d) The department ~~may~~ **shall** certify an amount less than the  
4 estimated twelve (12) month revenue collection ~~amount determined~~  
5 **under subsections (b) and (c)**, if the department, after reviewing the  
6 recommendation of the budget agency, determines that a ~~part of those~~  
7 collections need to be distributed during the current calendar year so  
8 that the county will receive its full certified distribution for the current  
9 calendar year. ~~the reduced distribution is necessary to offset~~  
10 **overpayments made in a calendar year before the calendar year of**  
11 **the distribution, including any overpayment resulting from the**  
12 **application of subsection (c). The department, after reviewing the**  
13 **recommendation of the budget agency, may reduce the amount of**  
14 **the certified distribution over several calendar years so that any**  
15 **overpayments are offset over several years rather than in one (1)**  
16 **lump sum.**

17 (e) After reviewing the recommendation of the budget agency,  
18 the department shall adjust the certified distribution of a county to  
19 correct for any clerical or mathematical errors made in any  
20 previous certification under this section. The department, after  
21 reviewing the recommendation of the budget agency, may reduce  
22 the amount of the certified distribution over several calendar years  
23 so that any adjustment under this subsection is offset over several  
24 years rather than in one (1) lump sum.

25 (f) The department, after reviewing the recommendation of the  
26 budget agency, shall adjust the certified distribution of a county to  
27 provide the county with the distribution required under section  
28 16(b) of this chapter.

29 (g) The department, after reviewing the recommendation of the  
30 budget agency, shall adjust the certified distribution of a county to  
31 provide the county with the amount of any tax increase imposed  
32 under section 25 or 26 of this chapter to provide additional  
33 homestead credits as provided in those provisions.

34 SECTION 12. IC 6-3.5-7-17.3, AS ADDED BY P.L.178-2002,  
35 SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
36 JUNE 1, 2003]: Sec. 17.3. (a) If, after receiving a recommendation  
37 from the budget agency, the department determines that a sufficient  
38 balance existed at the end of the preceding year that exceeded the  
39 required six (6) month balance as of the end of the preceding exists in  
40 a county account in excess of the amount necessary, when added to  
41 other money that will be deposited in the account after the date of  
42 the recommendation, to make certified distributions to the county



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1 **in the ensuing** year, the department may make a supplemental  
2 distribution to a county from the county's special account.

3 (b) A supplemental distribution described in subsection (a) must be:

4 (1) made in January of the ensuing calendar year; and

5 (2) allocated and used in the same manner as certified  
6 distributions.

7 (c) A determination under this section must be made before ~~July~~  
8 **October 2**.

9 SECTION 13. THE FOLLOWING ARE REPEALED [EFFECTIVE  
10 JUNE 1, 2003]: IC 6-3.5-1.1-9.5; IC 6-3.5-6-17.4; IC 6-3.5-6-17.5;  
11 IC 6-3.5-6-17.6; IC 6-3.5-7-19.

12 SECTION 14. **An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. President: The Senate Committee on Finance, to which was referred Senate Bill No. 166, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to SB 166 as introduced.)

BORST, Chairperson

Committee Vote: Yeas 14, Nays 0.

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